

REMARKS

Claims 9 to 18 are currently pending.

Applicants respectfully request reconsideration of the present application in view of this Supplemental/Replacement Response (which supplements/replaces the Amendment mailed on October 24, 2007).

Claims 9 to 18 were rejected under 35 U.S.C. 102(b) as being anticipated by Klatt (U.S. Patent 4,510,906).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

While the rejections may not be agreed with, to facilitate matters, independent claim 9 has been rewritten to provide for *determining a consumption per unit of distance from a resulting setpoint value for an output variable of the drive unit and a current engine speed, converting said consumption per unit of distance, and ascertaining the one of the haptic signals as a function of said specific fuel consumption per unit of distance value using an additional characteristics function*. Claim 15 has been rewritten in a like manner.

The "Klatt" reference does not identically disclose (nor suggest) these features. The "Klatt" reference only states that an optimum engine operating efficiency is to be achieved by the haptic feedback response, but not how this optimum engine efficiency is ascertained or determined.

Accordingly, claim 9 and its dependent claims are allowable.

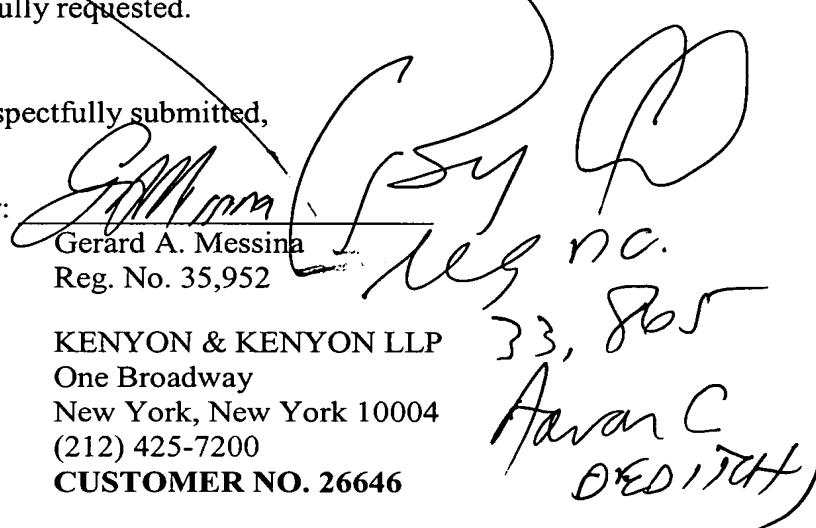
Claim 15 includes features like those of claim 9, and is therefore allowable for the same reasons, as are its dependent claims.

Accordingly, claims 9 to 18 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

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Respectfully submitted,
By: 
Gerard A. Messina
Reg. No. 35,952

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646

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